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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120409403-2218-02]

RIN 0648-BB93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Comprehensive Annual Catch Limit Amendment Supplement

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Supplemental final rule.

SUMMARY: NMFS issues this final rule to supplement the regulations implementing the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment) for the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). The Comprehensive ACL Amendment specified, in part, annual catch limits (ACLs) and accountability measures (AMs) for species in the Snapper-Grouper FMP. A final rule implementing the Comprehensive ACL Amendment published on March 16, 2012, and became effective on April 16, 2012. However, after publishing that final rule, NMFS discovered that the commercial quota (ACL)

for greater amberjack, which was specified in the Comprehensive ACL Amendment, was inadvertently not specified in the proposed or final rules to implement that amendment. The intent of this supplemental final rule is to implement the commercial ACL for greater amberjack, while maintaining catch levels consistent with achieving optimum yield for the resource.

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Electronic copies of the Comprehensive ACL Amendment, which includes a final environmental impact statement, a regulatory flexibility analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov/sf/pdfs/Comp%20ACL%20Am%20101411%20FINAL.pdf>.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727-824-5305, or e-mail: nikhil.mehta@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On October, 20, 2011, NMFS published a notice of

availability for the Comprehensive ACL Amendment and requested public comment (76 FR 65153). On December 1, 2011, NMFS published a proposed rule for the Comprehensive ACL Amendment and requested public comment (76 FR 74757). Additionally, on December 30, 2011, NMFS published an amended proposed rule for the Comprehensive ACL Amendment to revise the commercial and recreational sector ACLs for wreckfish and requested public comment (76 FR 82264). The Secretary of Commerce approved the Comprehensive ACL Amendment on January 18, 2012. The final rule to implement the Comprehensive ACL Amendment was published on March 16, 2012 (77 FR 15916).

On April 20, 2012, NMFS published a supplemental proposed rule to the Comprehensive ACL Amendment to revise the commercial quota (commercial ACL) for greater amberjack and requested public comment (77 FR 23652). A summary of the action implemented by this supplemental final rule is provided below.

The final rule to implement the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012) implemented AMs and a recreational ACL for greater amberjack. However, as part of the rulemaking for the Comprehensive ACL Amendment, NMFS inadvertently failed to revise the commercial quota for greater amberjack. This supplemental final rule revises the greater amberjack commercial quota to accurately reflect the actions in the Comprehensive ACL

Amendment and the Council's intent. This rule reduces the current commercial sector quota of 1,169,931 lb (530,672 kg), gutted weight, to 769,388 lb (348,989 kg), gutted weight.

Comments and Responses

A total of four comments letters were received on the supplemental proposed rule. Relevant comments were similar in content and are addressed in a single comment and response as follows.

Comment 1: The greater amberjack commercial quota should not be reduced to 769,388 lb (348,989 kg), gutted weight. The recent stock assessment indicated that greater amberjack is not undergoing overfishing and is not overfished. The lower quota will lead to greater economic hardships if greater amberjack is closed earlier each year.

Response: Although greater amberjack is not undergoing overfishing and is not overfished, the Magnuson-Stevens Act requires that a fishery management council specify ACLs for species in its FMPs at a level that may not exceed the fishing level recommendation of its scientific and statistical committee (SSC), and that ACLs prevent overfishing. The SSC recommendation that is the most relevant to ACLs is the acceptable biological catch (ABC). Based on the most recent stock assessment completed in 2008, the SSC recommended a

greater amberjack stock ABC of 1,968,000 lb (892,670 kg), round weight. Therefore, the Council specified a stock ACL for greater amberjack of 1,968,000 lb (892,670 kg). As described in the Comprehensive ACL Amendment, the commercial sector allocation equates to a commercial ACL of 800,163 lb (362,948 kg), round weight, or 769,388 lb (348,989 kg), gutted weight.

NMFS agrees that if the new commercial quota is met in-season, negative economic effects could be experienced by commercial fisherman who target greater amberjack, because the current Federal regulations require that if commercial landings reach, or are projected to reach the commercial quota (ACL), then the commercial sector will close for the remainder of the fishing year. The fishing year for greater amberjack begins on May 1 and ends on April 30. For the period of 2005-2009, commercial greater amberjack landings did not exceed the commercial quota (ACL) being implemented through this rule. However, NMFS notes that preliminary greater amberjack commercial landings data for the 2011-2012 fishing year indicate that commercial landings may have exceeded the revised commercial quota being implemented through this rule, and might have triggered a closure had this rule been in place for the 2011-2012 fishing year. However, as noted above, the Council cannot set the ACL at a level that exceeds the ABC. NMFS will

monitor commercial landings for the 2012-2013 fishing year, and subsequent years, to determine if the AM will be triggered and the commercial sector should be closed in-season.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this supplemental final rule is necessary for the conservation and management of the species within the Comprehensive ACL Amendment and is consistent with the Magnuson-Stevens Act, and other applicable law.

This supplemental final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the final rule to implement the Comprehensive ACL Amendment would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and the supplemental proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was proposed.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and
recordkeeping requirements, Virgin Islands.

Dated: July 12, 2012

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is
amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read
as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.42, paragraph (e)(3) is revised to read as
follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(3) Greater amberjack--769,388 lb (348,989 kg).

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